

**Notice of Allowability**

Application No.

10/627,439

Applicant(s)

RICHARDSON ET AL.

Examiner

Charleswort Rae

Art Unit

1614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 10/11/07.
2. ☒ The allowed claim(s) is/are 29.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 20071031.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

BRIAN-YONG S. KWON  
PRIMARY EXAMINER



### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Henry Heines, on November 6, 2007.

The application has been amended as follows:

In claim 29, in page 1, line 13, delete [6.0-3000] and replace with -- 6.0-300 --

In claim 29, in page 1, line 16 (i.e. line starting with "Zinc picolinate"), delete [40-60%] and replace with - - 40-60%. - -

Withdrawn claims, 49-69 are cancelled.

Claims 1-28, and 30-69 are therefore cancelled.

### **Reason for Allowance**

2. The prior art does not provide motivation or suggestion to combine the eight known active ingredients in the instant claimed bi-layered tablet in the instant claimed milligram range amounts (see US Patent 6,231,889; col. 9, line 15 to col. 11, line 6, especially col. 9, lines 16-37; and lines 16; col.11, line 45 to col. 12, line 55, especially Table III; see also instant specification at pages 13-18, especially Table 1 at page 13 and Table III at page 17).

The instant claimed subject matter is not found to have proper written basis in the provisional application: 60/101,308. However, written support is found in the divisional

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case, US Patent 6,231,889 (see col. 9, line 15 to col. 11, line 6, especially col. 9, lines 16-37; and col.11, line 45 to col. 12, line 55, especially Table III). The effective filing date for the claimed subject matter is considered to be September 15, 1999, which is the filing date of US Patent 6,231,889, from which the instant application claims benefit.

The rejections under 103(a) is withdrawn in view of the approval of the terminal disclaimer with respect to cited US Patent 6,207,190. It is noted that the inventive entity of instant application and US Patent 6,207,190 is identical.

### **Conclusion**

3. Claim 29 is allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charlesworth Rae whose telephone number is 571-272-6029. The examiner can normally be reached between 9 a.m. to 5:30 p.m. Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ardin Marschel, can be reached at 571-272-0718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 800-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

1 November 2007  
CER

BRIAN-YONG S. KWON  
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to be 'B. Kwon', followed by a long horizontal line extending to the right.